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COURIER: 3107 S.W. Williston Rd., Gainesville, FL 32608

Roman
Saliwanchik
(1926-1999)

Telephone: (352) 375-8100
Facsimile: (352) 372-5800
www.slsipatents.com

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FROM: Frank C. Eisenschenk, Ph.D.

DATE: December 12, 2005

FAX NO.: (571)273-8300

NO. OF PAGES
(INCLUDING COVER SHEET): 6

SUBJECT/MESSAGE:

Re: Serial No. 09/994,585; filed November 27, 2001
Attorney Docket No. TPI-T600XC1

1. Application for Patent Term Adjustment (PTA) (3 pages)
2. Attachments accompanying Application for Patent Term Adjustment (2 pages)

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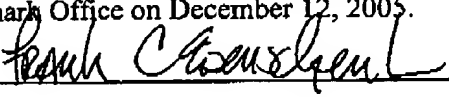
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Frank C. Eisenschenk, Ph.D., Patent Attorney

APPLICATION FOR PATENT TERM
ADJUSTMENT UNDER 37 CFR §1.705(b)
Examining Group 1639
Patent Application
Docket No. TPI-T600XC1
Serial No. 09/994,585

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Jon D. Epperson
Art Unit : 1639
Applicant : Douglas Levinson
Serial No. : 09/994,585
Filed : November 27, 2001
For : Rapid Identification of Conditions, Compounds, or Compositions That
Inhibit, Prevent, Induce, Modify, or Reverse Transitions of Physical State

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APPLICATION FOR PATENT ADJUSTMENT
UNDER 37 CFR §1.705(b)

Sir:

The subject application was filed on November 27, 2001. Applicant received a Notice to File Missing Parts dated December 21, 2001 and filed a response thereto that was received in the U.S. Patent Office (USPTO) on February 6, 2002. Applicant submits that the response and its receipt by the USPTO constituted no applicant delay.

A first action in this application would have been due by January 27, 2003. However, Applicant did not receive a Restriction Requirement until May 1, 2003. This constituted a Patent Office delay of 93 days. Applicant's response to the Restriction Requirement was filed on June 2, 2003 via facsimile, which constituted no applicant delay.

Applicant then received a Notice of Non-Responsive Amendment dated August 12, 2003 to which applicant filed a Supplemental Election via facsimile on September 12, 2003. This Supplemental Election constituted an applicant delay of only 42 days since Applicant would have had until August 1, 2003 to file an initial Election before accruing Applicant delay. Therefore, the time period from August 1, 2003 to September 12, 2003 should be counted as Applicant delay.

Applicant then received an Office Action dated December 8, 2003 to which a Response Under 37 CFR 1.111 was filed on March 4, 2004. Applicant's below-signed representative then conducted an Interview with Examiner Epperson, Bennett Celsa and John Lucas on June 23, 2004. During arrangements for that interview, Examiner Epperson indicated to Applicant's representative that the March 4, 2004 Response Under 37 CFR 1.111 was non-responsive and that a Notice of Non-Responsive Amendment would be sent to Applicant. In order to put the Response in proper compliance prior to the Examiner interview, a Supplemental Response Under 37 CFR 1.111 was filed by Applicant on June 17, 2004 that would constitute a 101 day Applicant delay.

Applicant then received an Office Action dated September 24, 2004 that should not have been issued. However, on October 1, 2004, Applicant received a facsimile (copy enclosed) from Examiner Epperson stating that the September 24, 2004 Office Action would be vacated, and also providing the Notice of Non-Responsive Amendment (copy enclosed) that was not included with the September 24, 2004 Office Action. Applicant also notes that the Communication regarding notice of non-response amendment was dated May 26, 2004. This notice, however, was not, and has not been, mailed to applicant by the USPTO.

On October 4, 2004, Applicant filed a further Supplemental Communication to reply to the Notice of Non-Responsive Amendment to make of record the fact that Applicant had *previously filed* a Supplemental Response on June 17, 2004 in anticipation of receiving said Notice of Non-Responsive Amendment, as discussed above.

Applicant does not believe that the time period from June 17, 2004 to October 4, 2004 should constitute a delay on the part of Applicant, as official notice of the non-compliant amendment was not mailed to Applicant. Further, Applicant respectfully asserts that the USPTO should have informed Applicant in a more timely fashion that the response filed on March 4, 2004 was not considered responsive. Therefore, Applicant further respectfully asserts that the 101 day Applicant delay mentioned above should also be significantly reduced due to the USPTO's untimely notice of such facts, particularly in view of the Patent Office's failure to mail the Notice of Non-compliant Amendment to Applicant. Indeed, Applicant was not informed of the Examiner's holding of non-response until three months after said response was filed and a copy of the Notice of Non-Responsive Amendment was faxed to applicant in a Patent Office Communication on October 1, 2004, more than 6 months (214 days) later.

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Docket No. TPI-T600XC1
Serial No. 09/994,585

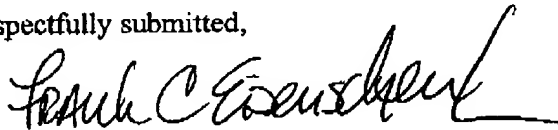
Applicant subsequently received a final Office Action dated April 4, 2005. Considering that Applicant's last Supplemental Communication was filed on October 4, 2004 (only to reply to the untimely Notice of Non-Response Amendment), this would constitute a USPTO delay of 58 days. However, Applicant would like to respectfully make note of the fact that, as discussed above, a Supplemental Amendment was filed on June 17, 2004 which was fully responsive to the previous Office Action. Therefore, the time period from June 18, 2004 to April 4, 2005 would constitute a USPTO delay of 291 days.

A reply to the final Office Action was filed timely by Applicant via facsimile on July 5, 2005. Applicant then received an Advisory Action dated July 21, 2005 to which Applicant filed a Supplemental Amendment with a Notice of Appeal on September 2, 2005, constituting an Applicant delay of 59 days. In reply to the Supplemental Amendment, Examiner Epperson issued a Notice of Allowance dated September 22, 2005.

Applicant respectfully submits that he is entitled to approximately 182 days of Patent Term Adjustment (384 days of Patent Office delay reduced by 202 days of Applicant's delay, as outlined above).

Please charge the fee of \$200 for this Application for Patent Term Adjustment to Deposit Account No. 19-0065. Any additional fees as required by 37 CFR §§1.16 or 1.17 should be charged to Deposit Account No. 19-0065. Two additional copies of this Application are enclosed.

Respectfully submitted,



Frank C. Eisenschenk, Ph.D.

Patent Attorney

Registration No. 45,332

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: P.O. Box 142950
Gainesville, FL 32614-2950

FCE/gld

Attachments: Copy of Fax Cover Sheet from Examiner Epperson dated Oct. 1, 2004 with accompanying Office Communication dated May 26, 2004.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Fax Cover Sheet

Date: 01 Oct 2004 ✓

To: Frank C. Elsenschenk, Ph.D.	From: Jon D Epperson
Application/Control Number: 09/994,585	Art Unit: 1639
Fax No.: 352-372-5800	Phone No.: (571) 272-0808
Voice No.: (352) 375-8100	Return Fax No.: (703) 872-9308
Re:	CC:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input type="checkbox"/> For Reply <input checked="" type="checkbox"/> Per Your Request	

Comments

Dear Mr. Elsenschenk,

The office action that was mistakenly sent out on 9/24/04 has been vacated. In addition, your latest 6/17/04 Response has been entered and will be placed onto my amended docket for examination. The case will be examined in turn, but no later than two months. I've also included as an attachment of the 6/1/2204 Non-Responsive Amendment that you did not receive. If you have any further questions, please give me a call at 571-272-0808.

Sincerely,

Jon Epperson
AU 1639

Number of pages __ including this page

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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5/26/2004

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Non-Responsive Amendment (Banafide)

The reply dated March 4, 2004 is not fully responsive to the prior Office action because of the following omission(s) or matter(s):

Applicants did not indicate which of the newly added claims are readable upon the elected species in accordance with MPEP § 809.02(a) (e.g., see Paper No. 4, page 11, paragraph 1ii, "If claims are added after the election, applicant must indicate which are readable upon the elected species"). In addition Applicants failed to add claims in an increasing sequential order in accordance with 37 CFR 1.121 (e.g., Applicants "skipped" claim 82).

The examiner also notes that the appropriate fees must be paid to extend the time period for response.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE(1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication should be directed to Examiner Jon D. Epperson, Ph. D., Art Unit 1639, whose telephone number is (571) 272-0808.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (571) 272-1600.

Jon D. Epperson Ph.D.
Patent Examiner